

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

UNITED STATES OF AMERICA, §  
§  
v. § CRIMINAL NO. 4:20-CR-269-Y  
§  
ERIC PRESCOTT KAY (01) §

**DEFENDANT'S REQUEST FOR SPECIFIC  
VOIR DIRE QUESTIONS FOR THE JURY**

TO THE HONORABLE TERRY R. MEANS,  
SENIOR UNITED STATES DISTRICT JUDGE FOR THE  
NORTHERN DISTRICT OF TEXAS

COMES NOW, **ERIC PRESCOTT KAY (1)**, Defendant, by and  
through his attorneys of record, MICHAEL A. MOLFETTA and WM.  
REAGAN WYNN, and, pursuant to Rule 24(a), Federal Rules of  
Criminal Procedure, respectfully requests this Court to ask the  
following questions of the venire panel:

***I. CASE SPECIFIC QUESTIONS***

- (1) **“This case concerns an allegation that Eric Kay distributed Fentanyl, a controlled substance, to Tyler Skaggs in the Northern District of Texas, and that Tyler Skaggs’ use of that Fentanyl caused his death. Tyler Skaggs was a pitcher for Major League Baseball’s Los Angeles Angels organization**

**and he died at a hotel in Southlake, Texas, on or about July 1, 2019, while the Angels were in town to play the Texas Rangers. Eric Kay was an employee of the Angels who traveled with the team to Texas. Have you seen, heard, or read anything about this matter? If so, please raise your hand.”** If any potential juror raises his or her hand, the Court is requested to ask said potential juror to **“please stand up, state your name and juror number, and briefly describe what you saw, heard, and/or read.”** Once any such potential jurors have identified themselves, the Court is requested to follow up with each and every identified juror by asking the following questions concerning each specific potential juror’s knowledge of this case:

(A) If the potential juror indicates he or she personally saw, heard, or read media reports concerning this matter:

**“From which news source(s) and/or internet site(s) did you obtain this information?”;**

(B) If the potential juror indicates he or she personally saw, heard, or read media reports concerning this matter:

**“How many times have you seen, heard, or read media report(s) concerning this matter?”;**

- (C) If the potential juror indicates he or she personally saw, heard, or read media reports concerning this matter:  
**“What specific details, if any, do you remember from the media report(s) you have seen, heard, or read?”**;
- (D) For any and all potential jurors who indicate they have seen, heard, or read something about this matter:  
**“Prior to coming to court today, have you discussed this matter with any other person?”** If the potential juror indicates he or she has discussed this matter with another person, the Court is requested to ask that potential juror: **“With which person or person(s) have you discussed this matter?”** If the potential juror identifies a person or persons with whom he or she has discussed this case, the Court is requested to ask that potential juror, **“How many times have you discussed this matter with <separately, each individual identified by the potential juror>?”** After the potential juror answers that question, the Court is requested to ask that potential juror, **“What specific details or ideas about this matter, if any, do you remember discussing**

**with <separately, each individual identified by the potential juror>?”;**

(E) For any and all potential jurors who indicate they have seen, heard, or read something about this matter:

**“Based on what you have seen, heard, or read about this matter prior to coming to court today, have you formed any opinion about whether Eric Kay is guilty or not guilty of the accusations against him?”** If the

potential juror indicates he or she has formed such an opinion, the Court is requested to ask that potential juror, **“What is your opinion in that regard?”**; and,

(F) For any and all potential jurors who indicate they have seen, heard, or read something about this matter: **“If you are seated as a juror in this case, would anything you have seen, heard, or read about this matter influence the way you listen to the evidence and decide on the proper verdict?”**

(2) **“Do you have any education, training, or experience in any of the following fields: medicine, toxicology, forensic toxicology, pathology, forensic pathology, and/or forensic science? If so, please raise your hand.”** If any potential juror

raises his or her hand, the Court is requested to ask said potential juror to **“please stand up, state your name and juror number, and briefly describe that training or experience.”**

- (3) **“Do you have any education, training, or experience in the field of addiction? If so, please raise your hand.”** If any potential juror raises his or her hand, the Court is requested to ask said potential juror to **“please stand up, state your name and juror number, and briefly describe that training or experience.”**

- (4) **“Have you or any close friends or family members been affected by the ‘opioid crisis’ in our country? If so, please raise your hand.”** If any potential juror raises his or her hand, the Court is requested to ask said potential juror to **“please stand up, state your name and juror number, tell us who, and briefly describe the situation.”** Once any such potential juror(s) have identified themselves, the Court is requested to follow up with each and every identified juror by asking the following questions concerning that situation:

(A) **“Has that situation affected your life? If so, how?”;**

- (B) **“Has that situation changed the way you feel about people who unlawfully use prescription pain pills? If so, how?”;**
  - (C) **“Has that situation changed the way you feel about people who unlawfully distribute prescription pain pills? If so, how?”;**
  - (D) **“Has that situation changed the way you feel about law enforcement and the ‘war on drugs?’ If so, how?”;**  
and,
  - (E) **“In addition to the allegation concerning the death of Tyler Skaggs, Eric Kay is also accused of conspiring to possess with intent to distribute Oxycodone and Fentanyl in the Northern District of Texas and elsewhere. If you are seated as a juror in this case, would that situation you just described concerning the ‘opioid crisis,’ any effect it has had on your life, and/or any strong feelings you have as a result influence the way you listen to the evidence and decide on the proper verdict?”**
- (5) **“Have you or any close friends or family members been affected by the use of Fentanyl, an extremely strong**

**synthetic opioid painkiller? If so, please raise your hand.”** If any potential juror raises his or her hand, the Court is requested to ask said potential juror to **“please stand up, state your name and juror number, tell us who, and briefly describe the situation.”** Once any such potential jurors have identified themselves, the Court is requested to follow up with each and every identified juror by asking the following questions concerning that situation:

- (A) **“Has that situation regarding Fentanyl affected your life? If so, how?”;**
- (B) **“Has that situation changed the way you feel about people who unlawfully use Fentanyl? If so, how?”;**
- (C) **“Has that situation changed the way you feel about people who unlawfully distribute Fentanyl? If so, how?”;**
- (D) **“Has that situation changed the way you feel about law enforcement and the ‘war on drugs?’ If so, how?”;**  
and,
- (E) **“In addition to the allegation concerning the death of Tyler Skaggs being caused by Fentanyl distributed by Eric Kay, Mr. Kay is also accused of conspiring to**

**possess with intent to distribute Oxycodone and Fentanyl in the Northern District of Texas and elsewhere. If you are seated as a juror in this case, would that situation you just described concerning Fentanyl, any effect it has had on your life, and/or any strong feelings you have as a result influence the way you listen to the evidence and decide on the proper verdict?"**

- (6) **"Have you or any close friends or family members ever worked for or directly with a franchise in a professional sports league such as the National Football League (NFL), the National Basketball Association (NBA), Major League Baseball (MLB), and/or the National Hockey League (NHL)? If so, please raise your hand."** If any potential juror raises his or her hand, the Court is requested to ask said potential juror to **"please stand up, state your name and juror number, tell us who, and briefly describe the situation."**

- (7) **"Do you personally know, or have you heard anything about, any of the following people? If so, please raise your hand:"**  
The Court is then requested to read each name appearing on both the Government's Witness List and the Defendant's



Witness list, giving the potential jurors enough time between the reading of each name to think and raise their hand if appropriate. If any potential juror raises his or her hand, the Court is requested to ask said potential juror to: **“please stand up, state your name and juror number, and tell us how you personally know or what you know about <the name of the potential witness>.”** Once the potential juror answers that question, the Court is requested to ask **“if you are seated as a juror and <the name of the potential witness> is called to testify as a witness, would your knowledge of him/her affect your judgment of his/her credibility as a witness and, if so, how?”**

## ***II. GENERAL QUESTIONS***

- (8) **“Have you or someone close to you, either now or in the past, been employed or associated with the United States Attorney’s Office, the United States Department of Justice, or any other department or agency of the United States Government? If so, please raise your hand.”** If any potential juror raises his or her hand, the Court is requested to ask said potential juror to **“please stand up, state your name and juror number, tell us who that person is, what is their relationship**

**to you, and briefly describe their employment and/or association.”** The Court is further requested to ask any such potential juror **“will your relationship with this person have any effect on the way you listen to the evidence and/or render your verdict if you are seated as a juror in this case?”**

- (9) **“Have you or any close friends or family members ever worked for any law enforcement agency other than the federal agencies I just asked you about? If so, please raise your hand.”** If any potential juror raises his or her hand, the Court is requested to ask said potential juror to **“please stand up, state your name and juror number, tell us who, and briefly describe their employment and/or association.”** The Court is further requested to ask any such potential juror **“will that situation have any effect on the way you listen to the evidence and/or render your verdict if you are seated as a juror in this case?”**

- (10) **“The law requires jurors to give Eric Kay, and any other defendant in a criminal case, the benefit of a presumption of innocence without any mental reservations whatsoever. Jurors are required to conscientiously consider this presumption of innocence as actual proof of innocence until**

**it is overcome by proof of guilt beyond a reasonable doubt. Knowing what I have just said, if you are selected as a juror in this case, would you, in any way, require Eric Kay to satisfy you as to his innocence by either presenting evidence, testifying, and/or calling witnesses on his behalf? If so, please raise your hand.”** If any potential juror raises his or her hand, the Court is requested to ask said potential juror to **“please stand up and state your name and juror number.”**

(11) **“Is there any member of the jury panel who believes Mr. Kay must have done something illegal or he would not be present in Court today? If so, please raise your hand.”** If any potential juror raises his or her hand, the Court is requested to ask said potential juror to **“please stand up, state your name and juror number, and briefly explain your feelings about this topic to us.”**

(12) **“The law of the United States provides that Eric Kay, and any other defendant in a criminal case, is not required to testify at trial. Our law further provides that, if Mr. Kay does not testify, you may not consider his failure to testify for any purpose whatsoever in deciding his guilt or innocence. If any one of you, because of your personal feelings or**

**otherwise, would not be able to conscientiously follow and apply that law, please raise your hand.”** If any potential juror raises his or her hand, the Court is requested to ask said potential juror to **“please stand up and state your name and juror number.”**

- (13) **“If the prosecution fails to prove Eric Kay’s guilt beyond a reasonable doubt, would any one of you hesitate to return a verdict of “Not Guilty?” If so, please raise your hand.”** If any potential juror raises his or her hand, the Court is requested to ask said potential juror to **“please stand up and state your name and juror number.”**

Respectfully Submitted,

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***ATTORNEYS FOR ERIC PRESCOTT KAY***

***CERTIFICATE OF SERVICE***

I hereby certify that on February 6, 2022, I electronically filed the foregoing document using the Court's CM/ECF system, thereby effecting service on attorneys of record.

/s/ Wm. Reagan Wynn  
WM. REAGAN WYNN